

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

NICHOLAS K. MERIWETHER,	:	
Plaintiff,	:	CASE NO. 1:18-CV-00753
v.	:	JUDGE SUSAN J. DLOTT
THE TRUSTEES OF SHAWNEE STATE UNIVERSITY, et al.	:	MAGISTRATE JUDGE KAREN L. LITKOVITZ
	:	
Defendants.		

**DEFENDANTS' RESPONSE TO MOTION TO INTERVENE (DOC. #18)
OF JANE DOE AND THE STUDENT-LED ORGANIZATION "SEXUALITY AND
GENDER ACCEPTANCE"**

Now come the Defendants, by and through counsel, and respond to the "Motion to Intervene as Defendants" of Jane Doe and the student-led organization, "Sexuality and Gender Acceptance" ("SAGA"). *Doc. #18*, In response to the Motion to Intervene, Defendants state that the Proposed Intervening Parties have cited the correct legal authority under Fed. R. Civ. P. 24, either in support of their motion to intervene as a matter of right, or for permissive intervention. With regard to the motion to intervene as a matter of right, the Proposed Intervenors have filed a timely motion and the student has asserted a legal interest in the case. *See, e.g., Bd. of Educ. v. United States Dept. of Educ.*, 2016 U.S. Dist. LEXIS 107614 *5-6, Case No. 2:16-CV-524 (S.D. Ohio, Aug. 15, 2016). However, Defendants respectfully disagree that the student's rights and the interests of the student association are not adequately represented by the Defendants, since the non-discrimination policy was properly enforced by the University in the case at issue, and the Defendants have moved to dismiss all of Professor Meriwether's claims. Defendants respectfully request that the Court review the merits of the Defendants'

Motion to Dismiss (Doc. #22), after it is fully briefed, prior to granting the Motion to Intervene. The Defendants take no position on the Proposed Intervenor's motion for permissive intervention. Alternatively, since the Proposed Intervenor has requested an opportunity to file a motion to dismiss under Fed. R. Civ. P. 12(b)(6), *Doc. #18*, p. 13, Defendants have no objection to the Court exercising its discretion to allow the parties to proceed as an *amicus curiae* and submit an amicus brief on the Defendants' Rule 12 motion.

Respectfully submitted,

DAVE YOST (0056290)
Ohio Attorney General

/s/ Rory P. Callahan

RORY P. CALLAHAN (0072021)
Trial Counsel
ANNA M. SEIDENSTICKER (0046761)
Principal Assistant Attorneys General
Employment Law Section
30 East Broad Street, 23rd Floor
Columbus, Ohio 43215-3167
(614) 644-7257 – Telephone
(614) 752-4677 – Facsimile
elsreview@ohioattorneygeneral.gov

HANNAH STONEBURNER (0092480)
Associate Assistant Attorney General
Education Section
30 East Broad Street, 16th Floor
Columbus, Ohio 43215-3167
(614) 644-7250 – Telephone
(614) 644-7634 – Facsimile
Hannah.Stoneburner@ohioattorneygeneral.gov

Counsel for all named defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of January, 2019, a true and accurate copy of the foregoing *Defendants' Response to Motion to Intervene (Doc. #18) of Jane Doe and Student-Led Group "Sexuality and Gender Acceptance"* that was electronically filed. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Rory P. Callahan

RORY P. CALLAHAN (0072021)
Trial Counsel
Principal Assistant Attorney General